THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

WP NO.33065 OF 1998

DATED 5TH JULY, 2006

BETWEEN:

S. SHAJAHAN KHAN, S/o.Yunus Khan

….. Petitioner

And

The Municipal Commissioner
Hindupur Municipality, Hindupur,
Ananthapur District

……

Respondent

Order: ***(Per Sri GM,J)***

This writ petition is filed seeking to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the order dated 9-11-1998 passed by the respondent as illegal, arbitrary and in violation of principles of natural justice.

The case of the petitioner is that he has constructed a zink shed in a small space belonging to the respondent-Municipality in the vegetable market, as the previous thatched shed collapsed due to incessant rains with the oral permission of the municipal authorities, but to his surprise the respondent has issued the impugned notice seeking to demolish the zink shed as it is being caused inconvenience to other traders in the vegetable market and constructed without obtaining permission.

Learned counsel for the petitioner states that the petitioner was not afforded opportunity being heard before passing the impugned order, which itself is in violation of principles of natural justice.

This Court by order dated 26-11-1998 in WPMP No.40649 granted interim stay of demolition and the said order is in force. Having to the facts and circumstances of the case and inasmuch as it is stated that no opportunity of hearing was given to the petitioner, the impugned order dated 9-11-1998 is set aside. However, it is open to the respondent-Municipality to issue fresh notice to the petitioner and after affording opportunity of hearing pass appropriate orders thereon in accordance with law. Till then, the interim order dated 26-11-1998 granted by this Court to continue.

The writ petition is disposed of with the above directions. No costs.

Ghulam

Mohammed, J

Dated 5th July, 2006

Nrg.